

REMARKS/ARGUMENTS

Claims 1-3 and 5-8 remain in the application. Claims 4 and 9 have been cancelled. A new Claim 10 has been added.

Claim 1, lines 1 and 4 have been amended to acknowledge application of the claimed invention to the pharmaceutical industry. Pharmaceutical companies, as referred to repeatedly in the specification, are drug manufacturers and authorized distributors, as specified in the PDMA cited in the specification at Pages 1 and 5 and quoted by the Examiner in footnote 9.

Claim 1, line 1 has been amended to emphasize the real time operation of the claimed method as the distribution transaction is being conducted. This real time nature of the claimed process is exemplified in the specification from Page 6, line 7 through Page 7, line 8 and from Page 16, line 15 through Page 17, line 4.

Claim 1 (d) at line 11 has been amended to more specifically set forth the standards for evaluation of the distribution request, as set forth in the specification, for example, at Page 6, lines 17-21; Page 10, lines 2-5; and Page 18, line 19 through Page 19, line 6.

Claim 3 has been amended to delete a limitation added to Claim 1, line 4.

The limitations of Claim 4 have been added to Claim 1 (d) and Claim 4 has been cancelled.

Claim 6, line 2 has been amended to conform with the amendment of Claim 1, line 1.

Claim 9 has been cancelled.

A new Claim 10 has been added to include a confirmation of the Examiner's interpretation of the word "propriety" as expressed in the Office Action starting in the middle of Page 4.

The Examiner has commented on the interpretation of the words "propriety" and "proprietor" in Claims 4 and 6. Claim 4 has been cancelled and Claim 6 has been amended to more specifically relate the limitations of that claim to the pharmaceutical industry. The term "pharmaceutical company" is used repeatedly in the Specification as the source of the tracked samples. The PDMA, referenced by the Examiner, places requirements on manufacturers and distributors of prescription drug samples.

Claims 4 and 6 are rejected under 35 U.S.C. 112 as being indefinite in specifying the limitation "the central inventory's proprietor". Claim 4 has been cancelled with those limitations added to Claim 1 (d), as specifically related to the pharmaceutical industry, as explained above. This limitation is further specified in new Claim 10.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over a Business Wire news release announcing the "launch" of a system called Sample Trak™, as supported by various cited portions of the PDMA Final Rules of the United States Department of Health and Human Services. (It should be noted that the inventors are not aware of a system of that name or capability being presently offered to the pharmaceutical industry.)

The Examiner asserts, regarding Claim 1, that "Business Wire teaches a method for tracking the distribution of controlled articles from a central inventory...". Quite to the contrary, Business Wire states "Field representatives are able to order samples and receive shipment acknowledgement via the web...". Thus, the Business Wire disclosure relates to the interaction between the field representative and the central supplier in ordering samples for **later** delivery to a physician.

The invention disclosed in the instant application and to which Claim 1 (currently amended) is clearly limited encompasses the **real time** transfer of samples from the field representative to the physician, after seeking and receiving authorization from the automated system. (See, for example, Application Page 16, line 5 through Page 17, line 4.) Claim 1 has been amended at line 1 to more clearly specify the real time transactional nature of the claimed method and subsection (g) has been added to specifically include distribution of the samples to the physician (or other authorized distributee). Applicants can find no disclosure or suggestion in the Business Wire reference, or in the PDMA of this real time aspect of the herein claimed method, the advantages of which are set forth in the Specification. On this point alone Applicants respectfully urge that the cited combination fails to render Claim 1 (currently amended) unpatentably obvious. Further points of difference are indicated below.

The Applicants take exception to the Examiner's statement at Page 6, Line 6 that Business Wire discloses that the field representative's request to the central supplier comprises "a statement describing the contents of the pocket of articles **being distributed** from a local inventory associated with the distributing representative." As explained above, in enabling a field representative to order sample and receive a shipment acknowledgement, the Business Wire system deals with samples to be distributed **in the future**. Thus, the Business Wire system is not a real time system as claimed in Application Claim 1 (currently available).

The Business Wire assertion that Sample Trak provides pharmaceutical companies with a complete solution for meeting the PDMA Final Rules cannot be considered as a disclosure of the automated steps of the instant claimed process. The PDMA requirements have been and are today being met by paper-based systems. In picking and choosing passages from the PDMA rules to flesh out the general assertions of the Business Wire article, the Examiner, with improper

Appln. Serial No. 09/942,803

Amend. Dated: April 1, 2004

Reply to Office Action of December 1, 2003

hindsight, is constructing a reference system based on the claims of the instant application, not on the Business Wire disclosure.

The Limitations of Claim 2 are not primarily relied on for patentability.

The remaining limitations of Claim 3 are not primarily relied on for patentability.

Claim 4 has been cancelled after addition of those limitations to Claim 2(d), with specific application to the pharmaceutical industry.

The limitations of Claim 5 are not primarily depended upon for priority.

With regard to Claim 6, while the Business Wire reference makes a general statement concerning the ability of managers to “efficiently track and control sample inventories,” Applicants can find no disclosure or suggestion of the specific step to which Claim 6 is limited.

With respect to Claim 7, Applicants can find no disclosure or suggestion of the claimed method step in the Business Wire article, even when considered together with the PDMA Final Rules. Applicants respectfully urge that the Examiner’s line of reasoning is completely outside of the scope of the cited reference and represents improper hindsight.

Appln. Serial No. 09/942,803
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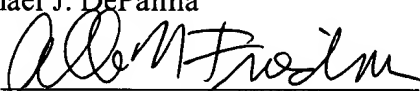
With respect to Claim 8, Applicants can find no disclosure or suggestion in the cited references, considered as a whole, of the claimed formality of use of an electronic form. The Examiner's citation is to a very general statement contained in the Business Wire reference.

Claim 9 has been cancelled.

In view of the above Amendments and Arguments, it is respectfully requested that the claims in their present form, be allowed and the Application be passed to issue.

If during consideration of this paper, the Examiner considers that the prosecution of this Application could in any way be expedited by a telephone interview, she is urged to call the undersigned attorney at (973) 639-6946.

Respectfully,
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